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Illegal Search Is Charged at Concealed Weapons Trial

PRESS SEP 22 '64

By BUS BERGEN

Illegal search and seizure were charged today in a Common Pleas Court battle over the trial of two men charged with carrying concealed weapons.

Central figure is 35-year veteran detective Martin J.

McFadden who arrested two East Side men for carrying loaded .38-caliber pistols after he became suspicious of the way they were acting on a downtown street.

Louis Stokes, attorney for the two men, asked Judge Bernard Friedman to dismiss the charge on the grounds

that McFadden's search of the two men was illegal and violated their constitutional rights.

McFadden, of the downtown department store detail, said he was walking on Euclid Ave. last Oct. 31 at 2:30 in the afternoon when he saw two men conferring and arguing on the sidewalk.

HE STOPPED and observed them. He said they seemed to nod in agreement and then separately walked past a jewelry store on Huron Rd., each peering inside intently. He said they did this several times, finally being joined by a third man who also strolled past the shop and looked inside.

McFadden then halted them and identified himself. He searched one man and found a pistol in his topcoat breast pocket.

He ordered all three into a nearby clothing store, holding the seized pistol on them. He found another loaded pistol in the coat pocket of a second man but found no weapon on the third.

ALL THREE were arrested, and the third man was cleared. But Richard D. Chilton, 26, of 16101 Lotus Dr., and John W. Terry, 31, of 1275 E. 105th St., were indicted. Chilton, a printer, has no record. Terry has a record of burglary, violation of probation and conviction of drug violation.

Reuben Payne, assistant county prosecutor, arguing against Stokes' motion to dismiss, said:

"This is a highly important case. It involves the right and duty of a policeman to stop a crime before it is being committed."

He cited a New York court case in which the judge ruled in favor of a policeman in similar circumstances.